

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 1947 of 2000

to

FIRST APPEAL No 1958 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE Y.B.BHATT

and

Hon'ble MR.JUSTICE M.C.PATEL

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1. Whether Reporters of Local Papers may be allowed : YES
to see the judgements?

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?

4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge? : NO

STATE OF GUJARAT

Versus

MAHMADBHAI GABABHAI

Appearance:

MR ND GOHIL, AGP for Appellant No. 1
MR AJ DESAI for Appellant No. 2
MR AJ PATEL for Respondent No. 1

CORAM : MR.JUSTICE Y.B.BHATT

and

MR.JUSTICE M.C.PATEL

Date of decision: 19/12/2000

COMMON ORAL JUDGEMENT

(Per : MR.JUSTICE Y.B.BHATT)

1. These are Appeals under Section 54 of the Land Acquisition Act read with Section 96 of the Civil Procedure Code at the instance of the State and the acquiring body challenging the common judgment and awards of the Reference Court passed under Section 18 of the said Act.

2. The lands in question were acquired for the purpose of construction of the Narmada Main Canal and are situated in village Serisa, Taluka Kalol, District Mehsana. The Notification under Section 4 for the acquisition of these lands was published on 19th July, 1990 (last date of publication). The Reference Court determined the market value of the lands and the impugned judgment and awards at Rs.48/- per sq. mtr.

3. As a result of the hearing and discussion, learned counsel for the respective parties agree that the decision of the present group of Appeals would be directly covered by an earlier decision of this very Bench delivered earlier today in a group of First Appeals namely, First Appeal No.570 of 2000 upto 578 of 2000. In this earlier group of Appeals, this Bench had dealt with acquisition for the same project, wherein the lands were acquired from the very same village namely, Serisa and the Section 4 Notification was also of the identical date namely, 19th July, 1990. In the premises aforesaid, for the reasons given by this Bench in the earlier decision, we find that the impugned judgment and awards are eminently sustainable and therefore these Appeals require to be dismissed.

4. Only one exception is required to be made, arising from the contention raised by the learned counsel for the appellants to the effect that no additional compensation can be awarded for the tubewell, nor the market value of the acquired lands would stand enhanced, merely on account of the existence of the tubewell. This particular question arises only in the case of Land Reference Case No.1420 of 1995 leading to First Appeal No.1952 of 2000.

4.1 In the context of this limited contention, learned counsel for the respondent - original claimant concedes the point. Therefore, no further discussion is

necessary. Consequently, we find and hold that the land holder whose lands are concerned in Land Reference Case No.1420 of 1995 (corresponding to First Appeal No.1952 of 2000) would not be entitled to Rs.10/- per sq. mtr. as additional market value of the acquired lands due to the tubewell on the land. This land holder would, no doubt, be entitled to the same market value as the other lands concerned in the same group of land acquisition cases namely, Rs.48/- per sq. mtr.

5. Consequently, First Appeal No.1952 of 2000 is partly allowed as discussed hereinabove while the rest of the Appeals stand dismissed. There shall be no orders as to costs. Decree accordingly.

hki